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July 21, 1989

## VIA TELECOPY

Carol Baschon, Esq.  
 Assistant Regional Counsel  
 U.S. Environmental Protection  
 Agency  
 Region IV  
 345 Courtland Street  
 Atlanta, GA

Re: Collierville Site

Dear Carol:

This letter confirms the discussions at our meeting at EPA's offices in Atlanta on Friday, July 14. That meeting was attended by you and Felicia Barnett on EPA's behalf, and by myself and Tim Vanderver, Carrier's outside counsel, Art Kanerviko, Carrier's inside counsel, Jess Walrath, Carrier's technical representative, and Phil Coop of En-Safe, Carrier's contractor at this site. In our view, the meeting was cordial and constructive, and we made great progress towards satisfactorily resolving the issues concerning this site.

At the meeting Carrier presented a good faith offer for finalizing technical studies and commencing remediation at the site; we discussed this offer at length. In sum, Carrier will present a level of effort (LOE) memorandum to EPA for review by July 31. The LOE memo will present a detailed outline of the work plan, the Quality Assurance Plan (QAP), and the health and safety plan. EPA will review this memo and try, if possible, to provide its comments within ten days. Carrier, in turn, will submit the draft RI/FS work plan, QAP, sampling plan, and health and safety plan to EPA three weeks after it receives EPA's



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PATTON, BOGGS & BLOW

Carol Baschon, Esq.

July 21, 1989

Page 2

comments. Thus, if EPA can provide its comments by about August 10, Carrier will provide EPA the draft plans by August 31.

Upon receipt of these drafts, EPA will try to review them in approximately 15 working days in order to provide comments to Carrier about such changes, if any, as are needed. The final approved plans will become part of the Consent Order.

Simultaneously with the development and submission of the LOE memo and resulting plans, Carrier and EPA will continue to negotiate the terms of the consent order. We think that substantial progress was made in clarifying the wording of the order which you had previously forwarded us. You will send us a new draft of that order for further negotiations, a draft which reflects our discussions on Friday.

We have also identified several areas which will need further clarification of the Agency's position or where adjustments will be needed to make the provisions acceptable. These issues are:

1. Does the agency want one or two submissions in connection with the feasibility study (FS)?

Felicia Barnett will let us know EPA's preference.

2. Cost Reimbursement.

EPA has stated that it needs Carrier to agree to reimburse EPA for contractor costs incurred prior to the effective date of the order in order to review Carrier's proposed work plan. Carrier is agreeable in principle to this point; we will need to work out satisfactory language. Additionally, other aspects of this issue need clarification.

3. Deadlines for Agency action.

The draft order contains no deadlines for agency action, but numerous deadlines for action by Carrier. This imbalance needs to be addressed, particularly since EPA delay may result in the loss of a construction season, or seasons, thereby making it



PATTON, BOGGS & BLOW

Carol Baschon, Esq.  
July 21, 1989  
Page 3

impossible for Carrier to meet deadlines it might otherwise be capable of meeting.

4. The dispute resolution, force majeure, and stipulated penalty provisions.

In our view, these provisions will require substantial additional discussion in order that we can arrive at language that will be workable and reasonable.

5. Treatability Studies.

New language may be needed to address the treatability studies which were discussed for the lag-on area and the area of the degreaser spill. We understand that EPA believes that the work proposed by Carrier for these areas should be classified as treatability studies.

5. Site Access.

Carrier will need language in the order addressing the issue of site access on adjacent property, and site access at the Collierville site.

We understand that EPA intends to extend the negotiation period until the end of September in response to our offer. We look forward to receiving your new draft of the proposed order, and will try to respond promptly with further comments.

Sincerely,

*Russell V. Randle*  
Russell V. Randle  
Counsel to Carrier Corporation

RVR/tlc